

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRED R. FRIGO,

Petitioner,

CIVIL ACTION NO. 04-74970
HON. JOHN CORBETT O'MEARA

v.

H.J. MARBERRY,

Respondent,

_____ /

**ORDER ADOPTING MAGISTRATE JUDGE WHALEN'S
REPORT AND RECOMMENDATION**

The Court having reviewed the Magistrate Judge's Report and Recommendation, filed August 21, 2006, as well as any objections thereto filed by the parties, and being fully advised in the premises;

IT IS HEREBY ORDERED that the Report and Recommendation is accepted and entered as the findings and conclusions of this Court, and that Respondent's Motion to Dismiss be GRANTED, and the Petition for Writ of Habeas Corpus be DISMISSED.

s/John Corbett O'Meara

United States District Judge

Dated: September 08, 2006

Certificate of Service

I hereby certify that the foregoing order was served upon the parties of record on September 09, 2006, electronically and/or by U.S. mail.

s/William Barkholz

Case Manager